

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
(HOUSTON DIVISION)

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

BL JUN 18 2004

Michael N. Milby, Clerk of Court

In re ENRON CORPORATION SECURITIES  
LITIGATION

MDL-1446

This Document Relates To:

MARK NEWBY, *et al.*, Individually and On Behalf  
of All Others Similarly Situated,

Plaintiffs,

-v.-

ENRON CORP., *et al.*,

Defendants.

Civil Action No. H-01-3624  
(Consolidated, Coordinated and  
Related Cases)

**SUPPLEMENTAL RESPONSE BY THE BANK DEFENDANTS TO THE  
UNITED STATES' MOTION FOR A STAY OF THE DEPOSITIONS OF JIM  
FALLON, WANDA CURRY AND JOHN GRIEBLING**

The undersigned defendants (collectively the "Bank Defendants")<sup>1</sup> hereby  
submit this supplemental response to the United States' Motion For a Limited Stay of

<sup>1</sup> This response is made on behalf of defendants Citigroup Inc., Citibank, N.A., Citigroup Global Markets Inc. (formerly Salomon Smith Barney Inc.) and Citigroup Global Markets Ltd. (formerly known as Salomon Brothers International Limited), J.P. Morgan Chase & Co., J.P. Morgan Chase Bank, J.P. Morgan Securities, Inc., Bank of America Corp, Banc of America Securities LLC, Bank of America, N.A., Barclays PLC, Barclays Bank PLC, Barclays Capital, Inc., Credit Suisse First Boston LLC, Credit Suisse First Boston (USA), Inc., Pershing LLC, Merrill, Lynch & Co., Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Canadian Imperial Bank of Commerce, CIBC World Markets Corp., CIBC Inc., Toronto Dominion Bank, Toronto Dominion Holdings (USA), Inc., TD Securities, Inc., TD Securities (USA) Inc., Toronto Dominion (Texas) Inc., Royal Bank of Canada, RBC Dominion Securities Inc., RBC Dominion Securities Ltd., RBC Holdings (USA) Inc., RBC

2214

Selected Depositions, (hereinafter “Government’s Motion” or “Motion”), filed June 10, 2004, for the purpose of informing the Court of the Government’s just-announced requests to stay certain depositions identified as possible August or Cycle 3 deponents.

As expected, the Government will again seek to block a significant number of defendant-nominated depositions in the August deposition cycle. The Government notified the Deposition Scheduling Committee on June 17 that it will exercise its peremptory one-month deferral right under the Court’s June 1, 2004 Order, and will shortly file a motion to stay the depositions of John Bloomer, Bill Collins, Bryan Begley and Arild Holm, all of whom were nominated by the defendants, and also Mr. David Fleischer, nominated by the plaintiffs.<sup>2</sup>

The Government’s stay requests again fall disproportionately on defendant-nominated deponents, and again focus primarily on witnesses knowledgeable about the failed Enron Broadband Services (“EBS”) business unit, which significantly contributed to Enron’s collapse. Messrs. Bloomer and Collins, both former EBS employees, and Mr. Begley, an employee of the McKinsey consulting firm which

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Dominion Securities Corp., Royal Bank Holding Inc., Royal Bank DS Holding, Inc., Royal Bank of Canada Europe Ltd., Deutsche Bank AG, Deutsche Bank Securities Inc., DB Alex. Brown LLC, Deutsche Bank Trust Company Americas, Lehman Brothers Holdings Inc., Lehman Brothers Inc., Lehman Brothers Commercial Paper Inc., The Royal Bank Of Scotland Group plc, The Royal Bank of Scotland plc, National Westminster Bank Plc, Greenwich Natwest Structured Finance, Inc., and Greenwich Natwest Ltd., Campsie Ltd. Certain of the bank defendants who join in this motion—namely, Royal Bank of Scotland, Royal Bank of Canada, and Toronto Dominion Bank, and their respective affiliates—are covered by the stay of discovery under the Private Securities Litigation Reform Act (15 U.S.C. Sec. 78u-4(b)(3)(B)), and join here without waiving any rights with respect to that stay.

<sup>2</sup> Prior to the Government’s objection, the parties had already agreed for other reasons to postpone Mr. Fleischer’s deposition until at least September.

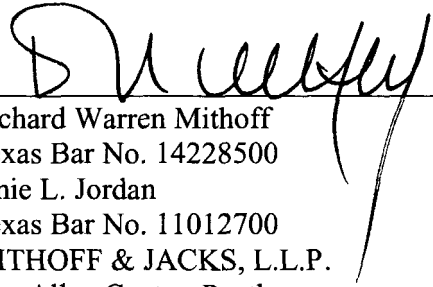
consulted on EBS' business strategy and execution, are all likely to offer testimony about the strategic, management, and product-development problems that ultimately led to the failure of EBS in the spring and summer of 2001 and the contemporaneous drop in the value of Enron's common stock. Moreover, the Government is now even attempting to prevent the defendants from deposing Mr. Arild Holm, an investment analyst for the Regents of the University of California, the Lead Plaintiff.

As discussed more fully in the Bank Defendants' Response To The United States' Motion For A Stay Of The Depositions Of Jim Fallon, Wanda Curry And John Griebeling, filed June 15, 2004, any decision to grant the Government's Motion would have an ongoing distorting effect on the deposition schedule. If granted, the Government's request to stay only certain depositions would substantially prejudice the Bank Defendants' ability to conduct important deposition discovery within the time constraints of the current case schedule.

Dated: June 18, 2004

Respectfully submitted,

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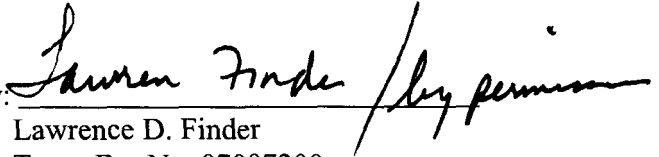
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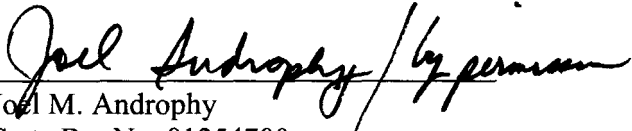
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